



DEPARTMENT OF TRANSPORTATION

[4910-EX-P]

Federal Motor Carrier Safety Administration

[Docket No. FMCSA-2013-0050]

Agency Information Collection Activities; New Information Collection: Lease and Interchange of Vehicles

AGENCY: Federal Motor Carrier Safety Administration (FMCSA) DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for its review and approval, and invites public comment. This ICR will enable FMCSA to document the burden associated with the marking regulations codified in 49 CFR Part 376, "Lease and Interchange of Vehicles." These regulations require certain for-hire motor carriers to have a formal lease when leasing equipment.

ACTION: Notice and request for comments.

DATES: We must receive your comments on or before **[Insert date 60 days after the date of publication of this notice in the Federal Register].**

ADDRESSES: You may submit comments identified by Federal Docket Management System (FDMS) Docket Number FMCSA-2013-0050 using any of the following methods:

- **Federal eRulemaking Portal:** <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Fax:** 1-202-493-2251.

- Mail: Docket Management Facility; U.S. Department of Transportation, 1200 New Jersey Avenue, SE., West Building, Ground Floor, Room W12-140, 20590-0001.
- Hand Delivery or Courier: West Building, Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m. e.t., Monday through Friday, except Federal holidays.

Instructions: All submissions must include the Agency name and docket number. For detailed instructions on submitting comments and additional information on the exemption process, see the Public Participation heading below. Note that all comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the docket to read background documents or comments received, go to <http://www.regulations.gov>, and follow the online instructions for accessing the dockets, or go to the street address listed above.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement for the Federal Docket Management System published in the **Federal Register** on January 17, 2008 (73 FR 3316), or you may visit <http://edocket.access.gpo.gov/2008/pdfE8-794.pdf>.

Public Participation: The Federal eRulemaking Portal is available 24 hours each day, 365 days each year. You can obtain electronic submission and retrieval help and guidelines under the “help” section of the Federal eRulemaking Portal Web site. If you want us to notify you that we received your comments, please include a self-addressed,

stamped envelope or postcard, or print the acknowledgement page that appears after submitting comments online. Comments received after the comment closing date will be included in the docket and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Thomas Kelly, Chief, Compliance Division, Office of Enforcement and Compliance, U.S. Department of Transportation, Federal Motor Carrier Safety Administration, 1200 New Jersey Avenue, SE, Washington, DC, 20590-0001. Telephone: 202-366-1812; E-mail: thomas.kelly@dot.gov

SUPPLEMENTARY INFORMATION:

Background: The Secretary of Transportation (Secretary) is authorized to require a motor carrier that uses motor vehicles not owned by it to transport property under an arrangement with another party to make the arrangement in writing. This written agreement must specify its duration, the compensation to be paid by the motor carrier providing transportation subject to jurisdiction under 49 U.S.C. 14102(a), “Leased Motor Vehicles” and signed by the parties. The Secretary has delegated authority pertaining to leased motor vehicles to FMCSA pursuant to 49 CFR Part 1.87(a)(6). The Agency’s regulations governing leased motor vehicles are at 49 CFR Part 376.

The rules were adopted to ensure that small trucking companies were protected when they agreed to lease their equipment and drivers to larger for-hire carriers. They also ensure that the government and members of the public can determine who is responsible for a property-carrying commercial motor vehicle. Prior to the regulations some equipment was leased without written agreements, leading to disputes over which party to the lease was responsible for charges and actions and, at times, who was legally responsible for the vehicle. Under 49 U.S.C. 14102(a), FMCSA “may require a motor

carrier providing for-hire transportation that uses motor vehicles not owned by it to transport property under an arrangement with another party to—

- (1) make the arrangement in writing signed by the parties specifying its duration and the compensation to be paid by the motor carrier;
- (2) carry a copy of the arrangement in each motor vehicle to which it applies during the period the arrangement is in effect;
- (3) inspect the motor vehicles and obtain liability and cargo insurance on them;
- and
- (4) have control of and be responsible for operating those motor vehicles in compliance with requirements prescribed by the Secretary on safety of operations and equipment, and with other applicable law as if the motor vehicles were owned by the motor carrier.”

The rules specify what must be covered in the lease, but not how responsibilities must be divided. The parties to the lease determine the details between themselves.

Part 376 applies to only certain motor carriers in interstate commerce and only certain leasing situations. The rules cover leasing between a for-hire carrier that does not hold an operating authority and another for-hire carrier that does hold operating authority. A for-hire motor carrier with or without operating authority that leases its equipment and drivers to a private motor carrier is not covered by the rule. A for-hire carrier with operating authority that leases its equipment to a non-motor carrier and operates under its own authority is also not covered by the rule. Private carriers that lease their equipment to for-hire motor carriers and for-hire carriers with their own operating authority leasing to another such carrier are subject to lesser requirements. For-hire carriers in interstate

commerce are exempt from the rules if they operate exclusively in commercial zones.

Commercial zones, last set by the ICC in 1975, are generally defined as a municipality and a distance from the limits of the municipality that ranges from 3 miles for cities with populations less than 2,500 to 20 miles for cities of a million or more people. Some municipalities have additional areas defined for them.

Title: Lease and Interchange of Vehicles.

OMB Control Number: 2126-XXXX.

Type of Request: New collection.

Respondents: Motor carriers or shippers authorized by the Secretary to transport property that uses leasing equipment.

Estimated Number of Respondents: 16,500.

Estimated Time per Response: 1 hour 35 minutes [26,000 estimated annual burden hours/16,500 respondents = 1.57575 hours or 1 hours 35 minutes].

Expiration Date: N/A.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 26,000.

PUBLIC COMMENTS INVITED: You are asked to comment on any aspect of this information collection, including: (1) whether the proposed collection is necessary for the

performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information. The agency will summarize or include your comments in the request for OMB's clearance of this information collection.

Issued on: March 18, 2013

Dr. G. Kelly Leone
Associate Administrator, Office of
Research and Information Technology
and Chief Information Officer

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